

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2432

Introduced by Assembly Member John A. Perez

February 19, 2010

An act to ~~amend Section 114276~~ *add Chapter 12.2 (commencing with Section 114374.10) to Part 7 of Division 104 of the Health and Safety Code*, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2432, as amended, John A. Perez. Food facilities: ~~toilet facilities; prepackaged nonpotentially hazardous foods.~~

Existing law, the California Retail Food Code, ~~requires permanent food facilities to provide clean toilet facilities for consumers, guests, or invitees when there is onsite consumption of foods or, with a specified exception, when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space. The code requires a building subject to this requirement to provide at least one separate toilet facility for men and one separate toilet facility for women~~ *provides for the regulation of health and sanitation standards for retail food facilities, including mobile food facilities and satellite food service, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing this code. A violation of these provisions is punishable as a misdemeanor.*

This bill would, for purposes of the above-described separate toilet facility requirement, ~~exclude from the calculation of the 20,000 square feet of floor space any area where nonfood-related items are made~~

available for retail sale and any area that is used only for the retail sale of prepackaged, nonpotentially hazardous food if these areas comprise more than 10,000 square feet.

This bill would, notwithstanding any provision of law to the contrary, exempt a permanent food facility that has less than 300 square feet of display area and that sells only prepackaged food that is not potentially hazardous food, from the requirements of the California Retail Food Code, except for prescribed provisions, and would permit the enforcement agency to recover investigation and enforcement costs.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 12.2 (commencing with Section*
2 *114374.10) is added to Part 7 of Division 104 of the Health and*
3 *Safety Code, to read:*

4
5 *CHAPTER 12.2. PREPACKAGED NONPOTENTIALLY HAZARDOUS*
6 *FOODS*

7
8 *114374.10. (a) Notwithstanding any provision of law to the*
9 *contrary, a permanent food facility that has less than 300 square*
10 *feet of display area and that sells only prepackaged food that is*
11 *not potentially hazardous food shall be exempt from the*
12 *requirements of this part except as set forth in subdivision (b).*

13 *(b) (1) A permanent food facility with a food display area of*
14 *25 square feet or less shall comply with all of the following:*

15 *(A) Sections 113980, 114047, 114049, 114390, 114393, 114395,*
16 *114397, and 114399.*

17 *(B) Chapter 1 (commencing with Section 113700).*

18 *(C) Chapter 2 (commencing with Section 113728).*

19 *(2) A permanent food facility with a food display area greater*
20 *than 25 square feet, but less than 300 square feet, shall comply*
21 *with all of the following:*

22 *(A) Sections 113980, 114047, 114049, 114381, 114387, 114390,*
23 *114393, 114395, 114397, 114399, 114405, 114407, 114409,*
24 *114411, and 114413.*

25 *(B) Chapter 1 (commencing with Section 113700).*

26 *(C) Chapter 2 (commencing with Section 113728).*

1 *114374.15. The enforcement agency may recover the costs of*
2 *investigation and enforcement of this chapter.*

3 ~~SECTION 1. Section 114276 of the Health and Safety Code~~
4 ~~is amended to read:~~

5 ~~114276. (a) A permanent food facility shall provide clean~~
6 ~~toilet facilities in good repair for use by employees.~~

7 ~~(b) (1) A permanent food facility shall provide clean toilet~~
8 ~~facilities in good repair for consumers, guests, or invitees when~~
9 ~~there is onsite consumption of foods or when the food facility was~~
10 ~~constructed after July 1, 1984, and has more than 20,000 square~~
11 ~~feet of floor space.~~

12 ~~(2) Notwithstanding Section 113984.1, toilet facilities that are~~
13 ~~provided for use by consumers, guests, or invitees shall be in a~~
14 ~~location where consumers, guests, and invitees do not pass through~~
15 ~~food preparation, food storage, or utensil washing areas to reach~~
16 ~~the toilet facilities.~~

17 ~~(3) For purposes of this section, a building subject to paragraph~~
18 ~~(1) that has a food facility with more than 20,000 square feet of~~
19 ~~floor space shall provide at least one separate toilet facility for~~
20 ~~men and one separate toilet facility for women.~~

21 ~~(4) For purposes of this section, the gas pump area of a service~~
22 ~~station that is maintained in conjunction with a food facility shall~~
23 ~~not be considered as property used in connection with the food~~
24 ~~facility or be considered in determining the square footage of floor~~
25 ~~space of the food facility.~~

26 ~~(5) For purposes of paragraph (3), the area where~~
27 ~~nonfood-related items are made available for retail sale and the~~
28 ~~area that is used only for the retail sale of prepackaged,~~
29 ~~nonpotentially hazardous food shall not be considered in~~
30 ~~determining the square footage of floor space of the food facility~~
31 ~~if these areas comprise more than 10,000 square feet.~~

32 ~~(c) (1) Toilet rooms shall be separated by well-fitted,~~
33 ~~self-closing doors that prevent the passage of flies, dust, or odors.~~

34 ~~(2) Toilet room doors shall be kept closed except during cleaning~~
35 ~~and maintenance operations.~~

36 ~~(d) Handwashing facilities, in good repair, shall be provided as~~
37 ~~specified in Sections 113953 and 113953.3.~~

38 ~~(e) Any city, county, or city and county may enact ordinances~~
39 ~~that are more restrictive than this section.~~

1 ~~(f) (1) Except as provided in paragraph (1) of subdivision (b);~~
2 ~~any building that is constructed before January 1, 2004, that has~~
3 ~~a food facility that provides space for the consumption of food on~~
4 ~~the premises shall either provide clean toilet facilities in good~~
5 ~~repair for consumers, guests, or invitees on property used in~~
6 ~~connection with, or in, the food facility or prominently post a sign~~
7 ~~within the food facility in a public area stating that toilet facilities~~
8 ~~are not provided.~~

9 ~~(2) The first violation of paragraph (1) shall result in a warning.~~
10 ~~Subsequent violations shall constitute an infraction punishable by~~
11 ~~a fine of not more than two hundred fifty dollars (\$250).~~

12 ~~(3) The requirements of this section for toilet facilities that are~~
13 ~~accessible to consumers, guests, or invitees on the property may~~
14 ~~be satisfied by permitting access by those persons to the toilet and~~
15 ~~handwashing facilities that are required by this part.~~